IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Satoru Sawada, et al.	**Examiner:**	Cristina O. Sherr
Serial No.:	09/457,842	**Art Unit:**	3685
Filed:	December 9, 1999	**Docket:**	JP919980216US1 (12924)
For:	DATA CHARGING SYSTEM, CONTENT GENERATOR, DATA CHARGING APPARATUS, AND DATA CHARGING METHOD	**Dated:**	August 25, 2008

Confirmation No.: 8134

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Dear Sir:

Pursuant to 35 U.S.C. 134 and 37 C.F.R. 41.41, entry of this Reply Brief in response to the Examiner's Answer in the above-identified matter is respectfully requested.

CERTIFICATION OF ELECTRONIC FILING

I hereby certify that this correspondence is being deposited with the United States Patent and Trademark Office via Electronic Filing through the United States Patent and Trademark Office e-business website, on August 25, 2008.

Dated: August 25, 2008

John S. Sensny

I INTRODUCTION

Applicants have appealed the rejection of Claims 1, 3-8, 10-16 and 21-25 under 35 U.S.C. 103 as being unpatentable over U.S. Patent 6,209,787 (Iida).

This rejection of these claims should be reversed because Iida does not disclose or render obvious an IC card having both the charging data and the recognition data as described in independent Claims 1, 3, 10 and 13.

II DISCUSSION

This Invention

The present invention relates to a system and method for charging users for copying or using digital data. In a preferred embodiment, a server machine generates digital data content that is delivered to a client machine. This content may be of several types, such as audio, video, static image, or text; and the content may be delivered to the client machine in various ways, such as over a network, or by a data recording medium. In addition, the server writes "electronic money" into an IC card that can be used to pay for the use of the generated content by the client machine. The client machine then uses the delivered digital data content, and the IC card is used to pay for the use of that data.

The IC card is also provided with data, referred to as recognition data, that helps to identify the type of the digital data used by the client machine. This information is used to help determine how much the user should be charged for use of the data. Charging or payment information can be written into the IC card. Preferably, both the content sent to the client machine and the IC card is provided with this recognition data. In this way, this data can be used

by the client machine to identify the type of data the object data is, and also the recognition data from the IC card can be used in the payment process.

Iida

Iida discloses a system for purchasing a personal recording media including a first entering unit for entering an identification information in order to identify a customer, and a unit connected to the first entering unit for identifying whether or not the customer is an authorized customer based on the entered identification information. Iida's system further includes a second entering unit connected to the identifying unit for entering at least one designated information by the customer when the customer is identified as an authorized customer in accordance with the identifying unit.

A unit is provided for storing a plurality of information, and another unit is connected to the second entering unit and the information storing unit for reading information associated with the designated information by retrieving the plurality of information in the information storing unit based on the designated information entered by the second entering unit. A further unit is connected to the information reading unit for recording the information read from the information storing unit into a predetermined recording media.

Differences between the claims and Iida

Each of the independent Claims 1, 3, 10 and 13 describes charging data for paying for object data, and recognition data provided on an IC card for identifying the type of object data. Iida does not make use of, render obvious or even mention using an IC card having both charging data for paying for object data, and recognition data for identifying the type of object

data.

In the Examiner's Answer, the Examiner argues that column 2, lines 40-50 of Iida discloses "an IC card including a recording medium for recording (i) charging data for paying for said object data and (ii) recognition data for identifying the type of the object data" (Examiner's Answer, Page 3, lines 8-10.

Applicants respectfully submit that the Examiner is reading into Iida more than what the reference actually discloses.

A careful reading of Iida, column 2, shows that this portion of Iida merely discloses a method for purchasing a personal recording media for collecting royalties at purchase of an "original compilation recording media." The text does not refer a recording medium for recording (i) charging data for paying for said object data and (ii) recognition data for identifying the type of the object data.

It is noted that Iida conducts a recognition method for recognizing an object (musical score) that the user has sung, or hums. However, this is not the same as, or the equivalent of, and does not render obvious, Applicants IC that records both (i) charging data for paying for an object data, and (ii) recognition data for identifying the type of that object data.

Moreover, it is important to recognize that the present invention does not simply provide an IC having recognition data, but instead, the invention provides an IC having both recognition data and charging data that are used in specific ways for specific purposes. Iida does not render obvious providing and using recognition data and charging data in the same way.

Appellants respectfully submit that it is critical to guard against the use of hindsight to read into the prior art teachings of the present invention. The Supreme Court, in KSR International Co. v. Teleflex, Inc., 82 USPQ2d 1386, 1385 (US 2007), reiterated the importance

of this safeguard. Specifically, the Supreme Court in KSR repeated instructions from Graham v. John Deere, 338 US1 (1966) to "guard against slipping into the use of hindsight."

III CONCLUSION

In view of the above-discussed differences between independent Claims 1, 3, 10 and 13 and Iida, it cannot be said that these claims would have been obvious to one of ordinary skill in the art in view of Iida. Claims 21, 24 and 25 are dependent from Claim 1 and distinguish therewith over Iida; and Claims 4-8 are dependent from Claim 3 and distinguish therewith over Iida. Similarly, Claims 11, 12, 22 and 23 are dependent from, and distinguish over Iida with, Claim 10; and Claims 14-16 are dependent from Claim 13 and distinguish therewith over Iida.

Accordingly, the rejection of Claims 1, 3-8, 10-16 and 21-25 under 35 U.S.C. 103 as being unpatentable over U.S. Patent 6,209,787 (Iida) should be reversed.

Respectfully Submitted,

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